

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 19-MJ-148
) (HB)
Plaintiff,)
)
v.) St. Paul, Minnesota
) March 13, 2019
Andrew Nathaniel David) 1:35 p.m.
Piontek,)
)
Defendant.)

BEFORE THE HONORABLE HILDY BOWBEER
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE
(AUDIO TRANSCRIPTION OF: PRELIMINARY & DETENTION HEARING)

APPEARANCES

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Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 P R O C E E D I N G S

2 IN OPEN COURT

3 THE COURT: We are in court this afternoon in the
4 matter of United States of America v. Andrew Piontek. This
5 is Matter No. 19-MJ-148, and we're here on a preliminary
6 probable cause hearing and detention hearing because there's
7 a complaint in this case, rather than an indictment at this
8 point.

9 Let me start by getting appearances, first on
10 behalf of the United States.

11 MR. SING: Good afternoon, Your Honor. Jordan
12 Sing appearing on behalf of the government. With me at
13 counsel table is Laura Provinzino and HSI Special Agent
14 Travis Hamblen.

15 THE COURT: Okay. Good afternoon.

16 And on behalf Mr. Piontek.

17 MS. ATWAL: Good afternoon, Your Honor. Manny
18 Atwal on behalf of Mr. Piontek, who is sitting next to me.

19 THE COURT: Okay. So, as I indicated, we're here
20 both for a probable cause hearing and for a detention
21 hearing.

22 Is the government still moving to detain
23 Mr. Piontek?

24 MR. SING: Yes, Your Honor.

25 THE COURT: All right. And do you intend to call

1 witnesses?

2 MR. SING: We will call Special Agent Hamblen.

3 THE COURT: All right. Ms. Atwal, just so I know,
4 do you intend to call any witnesses in connection with this
5 hearing?

6 MS. ATWAL: No, Your Honor.

7 THE COURT: All right. Then you can go ahead,
8 Mr. Sing.

9 MR. SING: Thank you, Your Honor. The government
10 calls Special Agent Hamblen to the stand.

11 THE COURT: Please raise your right hand.

12 (Witness administered oath by the Court.)

13 THE COURT: All right. Please be seated.

14 And, Mr. Sing, I assume you will cover both
15 probable cause and any testimony that you want to introduce
16 around detention as well?

17 MR. SING: Yes, Your Honor.

18 THE COURT: Okay.

19 MR. SING: And then I would ask to argue after
20 Ms. Atwal questions him.

21 THE COURT: Right. All right.

22 MR. SING: Okay.

23 THE COURT: Please go ahead.

24 MR. SING: Thank you, Your Honor.

25

1 **TRAVIS HAMBLÉN**

2 **DIRECT EXAMINATION**

3 **BY MR. SING:**

4 Q. Special Agent Hamblen, can you tell us about your
5 current job title and responsibilities.

6 A. I'm a special agent with Homeland Security
7 Investigations in St. Paul, Minnesota.

8 Q. And do you have training and experience involving cases
9 of child exploitation or child pornography?

10 A. I do.

11 Q. What is that experience and training?

12 A. I was trained originally at the Federal Law-Enforcement
13 Training Center on the basics of conducting child
14 pornography and exploitation investigations. And then over
15 the past 22 years, I have been involved in several
16 investigations.

17 Q. Is it in that capacity that you became involved in the
18 current case involving Mr. Piontek?

19 A. That's correct.

20 Q. So I'd like to draw your attention to December 11th of
21 2018. Is that when you first became involved in the
22 investigation involving Mr. Piontek?

23 A. That's correct.

24 Q. And was Mr. Piontek engaged in international travel or
25 what led to the start of this investigation?

1 A. Correct. Mr. Piontek was returning to the United States
2 from a trip to Thailand and other places. He returned on a
3 flight from Amsterdam landing at the Minneapolis airport.

4 Q. And what led to Mr. Piontek being searched by custom and
5 border patrol?

6 A. Mr. Piontek was referred for a secondary inspection,
7 basically routine procedure that happens when you return to
8 the United States in which the customs officers determine if
9 you're bringing contraband items or such things. That's
10 just a part of their normal entry process for Americans
11 returning.

12 Q. What was discovered during the secondary search?

13 A. Mr. Piontek had multiple electronic devices, but, more
14 importantly, he had a thumb drive which was located by one
15 of the officers. It was in his baggage and it was further
16 located hidden inside of a water bottle-type item.

17 Q. And when you say "hidden," can you describe what you
18 mean by -- how was it hidden?

19 A. So it was -- I may slightly misdescribe, but let's say
20 it's a plastic water bottle-looking device, and inside of it
21 he had a sock and inside the sock was a small thumb drive,
22 maybe two inches in length, half an inch wide, very clearly
23 looked like the normal thumb drive, but it was wrapped up
24 inside of a sock. And that became very suspicious to the
25 officers that were going through his belongings because it's

1 not something you would normally find.

2 Q. Did you have an opportunity to speak with Mr. Piontek
3 after this discovery?

4 A. I did.

5 Q. And was that a Mirandized interview?

6 A. Yes, it was.

7 Q. Did you have a chance to ask Mr. Piontek about this
8 hidden thumb drive?

9 A. I did. I talked to him about that thumb drive and the
10 other devices that he had, and he freely admitted that the
11 thumb drive and -- well, actually, he told me that the thumb
12 drive and the computer -- he had a MacBook Pro computer --
13 both contained child pornography. And when I asked him to
14 describe what he meant by the child pornography, he said
15 that it was images and videos of children about eight years
16 of age or slightly older engaged in sexual activities or
17 naked.

18 Q. Did Mr. Piontek indicate how many of the devices would
19 have contained child pornography at that point?

20 A. I believe he said that two of the devices would have
21 child pornography on them.

22 Q. Were you able to ask Mr. Piontek about the custody of
23 these devices, if they were his or someone else's?

24 A. Correct. I spoke with him at a pretty good length about
25 who the owner of the devices were, who had access to the

1 devices, and he told me that they were all his devices, that
2 he was the only person that had access, that they were --
3 all had passwords which restricted access to them. And I
4 asked him if he was married or had a roommate or somebody
5 else that could have accessed the devices and he said, No,
6 and he then provided me with the passwords so that we could
7 get into the devices.

8 Q. And did you have the chance to ask Mr. Piontek about how
9 he came to possess these devices if he downloaded them or
10 where they came from?

11 A. So the -- you're asking about the content on the
12 devices?

13 Q. Yeah, how he actually got that content.

14 A. He said that he had downloaded them through the
15 internet, both while in the United States and while in
16 foreign countries. I think he actually said in Thailand.

17 Q. And did you have an opportunity to ask Mr. Piontek about
18 actually carrying this content overseas? Had he traveled
19 with this content?

20 A. During that interview, I believe I did, but I -- more
21 specifically, I had interviewed him on a second date and he
22 specifically told me that prior to being caught on December
23 11th possessing the child pornography, that he had
24 previously traveled international twice with device -- with
25 devices or child -- that contained child pornography.

1 Q. In the course of your investigation, were you able to
2 research Mr. Piontek's history of traveling abroad?

3 A. I have.

4 Q. What did you learn about the frequency of such trips?

5 A. So just speaking as to the previous ten years, because
6 he has international travel that goes back probably over 20
7 years, but just looking at the most recent 10 years, he has,
8 I believe it was, 24 separate trips abroad.

9 Q. And did that travel include any notable or frequent
10 locations when you looked?

11 A. He routinely went to places that in the world of child
12 pornography, child exploitation investigations that are
13 interesting to us because they are places that are
14 well-known for the ability to obtain sex with children and
15 other acts of that nature; so, for example, Thailand, the
16 Dominican Republic, the Ukraine. These were all places
17 where it's well-known in the community of child pornography
18 that sex tourism is available or more readily available than
19 most places.

20 Q. And are these places you mentioned -- Thailand, Ukraine
21 and Dominican Republic -- are those locations that
22 Mr. Piontek had traveled?

23 A. Extensively, yes.

24 Q. Were you able to learn about Mr. Piontek's employment
25 status?

1 A. At the time, in December -- actually, as well as when he
2 was arrested last week -- he was unemployed. I believe
3 officially he's unemployed; although, he sought out
4 part-time employment working as an Uber driver.

5 Q. Did Mr. Piontek suggest that any of his travel to these
6 locations was for business purposes?

7 A. No. I believe it was all for personal reasons.

8 Q. After speaking with Mr. Piontek on December 11th, did
9 you have the opportunity to review the electronic devices
10 that he was traveling with?

11 A. Yes. We -- I submitted the devices for a review by a
12 computer forensic agent, and I was present during the very
13 beginning of the initial examination of the devices.

14 Q. And did you locate images or traces of child pornography
15 on those devices?

16 A. There were thousands of images. I only stayed for a
17 very brief period because it was just very disturbing and
18 not something that I wanted to stay. We usually allow --
19 have the forensics agents do the remainder, but we'll come
20 for the initial evaluation just to determine if it's
21 blatantly obvious that there's child pornography and the
22 nature of what was collected.

23 Q. Now, I believe that you testified that Mr. Piontek had
24 said there was child pornography on two of his devices. Is
25 that right?

1 A. That's what he told me in December.

2 Q. Is that consistent with what you found during this
3 initial review?

4 A. So the computer forensics found that there was either
5 child pornography or traces of previously-deleted child
6 pornography or messaging related to sex tourism, things of
7 that nature. All basically -- all the devices basically
8 contained some type of evidence of involvement in child
9 pornography or sex tourism.

10 Q. You also indicated that Mr. Piontek stated that the
11 child pornography involved children ages eight and up; is
12 that correct?

13 A. That's what he told me.

14 Q. And is that the types of pornography you saw during this
15 initial review?

16 A. Yes. There were videos of children significantly
17 younger than eight, probably about three years of age I want
18 to say, just some very disturbing images.

19 Q. And to date have you been able to do a comprehensive and
20 complete analysis of these seven devices?

21 A. So our forensics agents are in the process, but the
22 complete examination requires probably thousands of hours of
23 manpower to go through each -- all these devices there's
24 just so much data. But they have done their initial
25 findings and determined such things as that there's several

1 thousand images and videos of child pornography.

2 Q. One of the devices seized was an iPhone 7; is that
3 correct?

4 A. Correct.

5 Q. Did you have a chance to look at the internet search
6 history of that iPhone 7?

7 A. I did.

8 Q. And I'd like to direct your attention to July 29th of
9 2017. Do you recall that date as it relates to the internet
10 search history?

11 A. Yes. So while we were -- or while I was reviewing that
12 device, I noticed several chat logs, communications through
13 some secure applications like What's App. They are all
14 applications that are pretty routinely used for covert
15 communications or encrypted communications. And at that
16 time, in July of 2017, the phone through its GPS indicates
17 that the device is located in the Ukraine. And at the same
18 time that the device is in the Ukraine searches are being
19 made and they are for terms such as how to locate pedophile
20 sex in the Ukraine, how to locate child prostitutes in Kiev,
21 some inquiries of that nature.

22 Q. Do you know through your review if Mr. Piontek was in
23 the Ukraine at this time?

24 A. He was. And the interview last Saturday where I
25 interviewed Mr. Piontek, he told me that he was in fact in

1 the Ukraine and that he did make those searches.

2 Q. Were you able to locate other -- you mentioned encrypted
3 chats. Were you able to review those for any indication of
4 sex tourism behavior?

5 A. Yes. There's extensive amounts of information. A lot
6 of it we can't get the whole picture on because it's through
7 applications that are either encrypted or -- and it's going
8 to take the government a significant amount of time to
9 actually get to the bottom of the actual full content, but
10 the stuff that I can see there's extensive communications
11 with persons -- either prostitutes or persons offering the
12 services of prostitutes in which he's negotiating for sexual
13 activity, certain sex acts for certain amounts of money and
14 things of that nature.

15 Q. So after this interaction on December 11th of 2018, are
16 you aware if Mr. Piontek again traveled abroad?

17 A. Yes. He just returned this weekend.

18 Q. And do you know where he returned from?

19 A. I believe he was in Thailand this time. Technically his
20 flight returned from Hong Kong, I believe. But I believe
21 ultimately he spent most of his time in Thailand.

22 Q. And is it at that time that Mr. Piontek was arrested on
23 the current criminal complaint?

24 A. That's correct.

25 Q. Did you have a chance to interview Mr. Piontek when he

1 was arrested on March 9th?

2 A. I did.

3 Q. And was that also after a post-Mirandized -- or you read
4 him his Miranda rights first?

5 A. I once again Mirandized him, and he agreed to speak with
6 me.

7 Q. Were you able to ask Mr. Piontek what his reasoning for
8 being in Thailand was at that time?

9 A. He told me that this particular trip was to visit a
10 woman that he had met in Thailand in the past, so -- I
11 believe over the internet.

12 Q. Did you have an opportunity to ask Mr. Piontek about the
13 child pornography you had located on his devices previously?

14 A. Yes.

15 Q. And what did -- what did you learn during the course of
16 that conversation?

17 A. Well, first, I confronted him about the fact -- when I
18 say confront, I brought up the fact in the nicest possible
19 way that I thought that he had significantly more than 200
20 images and that it looked like more like 2 or 3,000 images,
21 and he agreed with me. And we also discussed the main
22 reason that I wanted to speak with him after his arrest was
23 I was very concerned about the text messages or messaging
24 that he had and the search -- internet searches related to
25 trying to obtain sex with children while abroad.

1 Q. Before we get to the questions you asked him about those
2 text messages, did you have a chance to ask Mr. Piontek if
3 he was continuing to view child pornography after your
4 interview in December of 2018?

5 A. Yes. He told me that he was no longer collecting child
6 pornography, that he would simply go onto the internet
7 through some covert means. But he would go onto the
8 internet and browse child pornography now, as opposed to
9 collecting it.

10 Q. Did Mr. Piontek ever describe to you if he had ever
11 distributed this child pornography in the past?

12 A. He said that he had in the past.

13 Q. And you said that you had an opportunity to ask
14 Mr. Piontek about these internet searches about finding sex
15 with children. Can you tell me about the nature of that
16 conversation.

17 A. He told me that he did in fact make those searches. We
18 were specifically talking about -- it was in July of 2017, I
19 can't remember the specific date, but that he had made these
20 searches and he admitted that, yes, he had in fact made the
21 searches. He was curious.

22 And I further talked to him about my concerns that
23 somebody being a collector moving into the realm of being an
24 actor seeking out, because that was the basic basis of our
25 -- of the reasoning behind my interview of him.

1 Q. Were you able to ask Mr. Piontek if the searches that he
2 placed were at all connected with the destinations that he
3 traveled to?

4 A. Yes. He agreed. I brought to his attention that these
5 were all places that I knew that sex tourism or obtaining
6 sexual services from children was much more likely, and he
7 agreed that this was the case and --

8 Q. Do you recall how he agreed with you? Did he say
9 anything specific about these locations?

10 A. I believe the wording was it was an added bonus. He
11 denied that this was the sole means of his trip or sole
12 reason for his trips there, but he did agree that it was an
13 added bonus to be able to explore the opportunities or the
14 possibilities of sex with children or sex tourism.

15 MR. SING: Thank you, Your Honor. I don't have
16 anything further for Mr. Hamblen at this time.

17 THE COURT: Thank you.

18 Ms. Atwal.

19 MS. ATWAL: Thank you, Your Honor.

20

21 **CROSS-EXAMINATION**

22 **BY MS. ATWAL:**

23 Q. Agent, let's go back to your experience. You said you
24 have experience in child exploitation cases, correct?

25 A. Correct.

1 Q. And you've done this for how long?

2 A. Twenty-two-and-a-half years.

3 Q. Is this your first child pornography case?

4 A. This is the first case that I've charged. I've
5 participated in dozens: assisted with the search warrants,
6 initial interviews, arrests, so forth. But normally --
7 normally I would be in an assisting capacity in these types
8 of investigations.

9 Q. So this is your first case, though, where you have been
10 in charge, correct?

11 A. Correct.

12 Q. Now, you would agree with me that child-pornography
13 images -- let me find your words -- are all very disturbing,
14 correct?

15 A. The ones that I reviewed in my time as a law-enforcement
16 officer have been, yes.

17 Q. Now, you discussed that at least twice you interviewed
18 Mr. Piontek, correct?

19 A. Correct.

20 Q. Each time you identified yourself as a federal agent,
21 correct?

22 A. Correct.

23 Q. You Mirandized him?

24 A. Correct.

25 Q. And each time you're testifying that he admitted to

1 illegal activity, correct?

2 A. Correct.

3 Q. You recall that being cooperative, that he was speaking
4 to you and admitting to what he had done, correct?

5 A. Yes. That's true.

6 Q. That happened on December 11th, 2018, correct?

7 A. Correct.

8 Q. Happened again on March 9th, 2019, correct?

9 A. Correct.

10 Q. So at least twice he was cooperative with you? Yes?

11 A. I've only spoken with him twice.

12 Q. Both times he was cooperative? Yes?

13 A. Yes.

14 Q. Now, when you asked him about July 2017 when he was in
15 the Ukraine and he did these searches, he admitted to those
16 searches, correct?

17 A. He did.

18 Q. And when you asked him if he had contact with minors, he
19 said, No, correct?

20 A. That's what he told me.

21 Q. That's what he told you? Yes?

22 A. Correct.

23 Q. And in all these, as I think your words were, thousands
24 of images, you have no evidence that he actually had contact
25 with minors, correct?

1 A. That's correct.

2 Q. Now, when you first identified yourself and Mirandized
3 him on December 11th, 2018, he admitted to possessing child
4 pornography, which is a crime, correct?

5 A. Correct.

6 Q. And he knew he was in trouble at that point, correct?

7 A. Correct.

8 Q. And afterwards you released him, correct? You let him
9 go home?

10 A. On December 11th, yes. Correct.

11 Q. Then you did a little bit of homework about him,
12 correct?

13 A. That's correct.

14 Q. You looked up his criminal history?

15 A. Yes.

16 Q. Did you find anything in there?

17 A. I believe he had some type of charge related to -- I
18 would characterize it as terroristic threats or threats of
19 some nature related to a government office, but I don't -- I
20 didn't obtain the police reports or look further into it.

21 Q. You are aware that that case was eventually dismissed
22 after he completed probation?

23 A. I can't tell you what the exact disposition was. I
24 believe the records that I reviewed showed that he was
25 convicted, and I'm not sure if there was some type of

1 agreement with the court that it would later be dismissed if
2 he completed some type of terms.

3 Q. You also discovered he was living at an address in
4 Maplewood, correct?

5 A. Correct.

6 Q. You didn't find anything else negative in his record,
7 correct?

8 A. No, I did not.

9 Q. Now, when he went back to Thailand in February, he
10 returned to the United States, correct?

11 A. Yes.

12 Q. He was stopped in Chicago?

13 A. He went through customs, as everybody would, but I don't
14 know what you -- I don't know that he was stopped. He was
15 not arrested or detained any more than anybody else that
16 travels through.

17 Q. Are you aware -- you knew he was coming back on March
18 9th, correct?

19 A. Yes, I did know.

20 Q. And how did you know that?

21 A. We have access to international travel records.

22 Q. Okay. And what did you learn?

23 A. That he was returning on March 9th through --

24 Q. From Chicago or from Thailand?

25 A. So he was actually flying -- I believe -- I could be

1 wrong, but I believe he was flying from Hong Kong to Chicago
2 and then continuing from Chicago to Minneapolis.

3 Q. Were you made aware of any illegal activity or any
4 problems when he was detained in Chicago?

5 A. I wasn't aware of any problems. I know that customs and
6 border protection detained his devices.

7 Q. And did you find out if there was anything illegal on
8 those devices?

9 A. They will be reviewed pursuant to border search, but
10 they have not yet been reviewed. There's usually a several
11 day backlog, unless it's an emergency.

12 Q. So as we sit right here now, you're not aware of
13 anything illegal on those devices, correct?

14 A. I can't say either way, if there is anything on the
15 devices, because I haven't -- they haven't been examined.

16 Q. So the answer is no, you are not aware of anything as of
17 right now?

18 A. I'm not aware, no.

19 Q. Okay. Then he comes to Minneapolis, correct?

20 A. Yes.

21 Q. And, again, he is stopped by you?

22 A. Correct.

23 Q. You question him again?

24 A. I did.

25 Q. Did you search him?

1 A. I did prior to taking him to the Ramsey County Jail, but
2 not prior to talking to him.

3 Q. Did you find anything illegal on him?

4 A. No, I don't believe we did.

5 Q. Did you take his passport?

6 A. I did.

7 Q. Is that passport needed for international travel?

8 A. Yes, technically it is needed.

9 Q. And where is that passport again?

10 A. It's at my office.

11 MS. ATWAL: Thank you. I have nothing further.

12 THE COURT: All right. Thank you.

13 Mr. Sing, anything further?

14 MR. SING: Just a few follow-ups, Your Honor.

15

16 **REDIRECT EXAMINATION**

17 **BY MR. SING:**

18 Q. Special Agent Piontek -- I'm sorry, Special Agent
19 Hamblen, you were asked by Ms. Atwal if all images of child
20 pornography are particularly disturbing. Do you recall
21 that?

22 A. Yes.

23 Q. Was there anything about the images that you reviewed of
24 Mr. Piontek's that you would say stood out to you as far as
25 being disturbing?

1 A. So the very first image I -- as I said earlier, I was
2 present during the initial examination of his devices, and
3 then I left because it was kind of upsetting and it's not
4 something that I want to see the full scope of. So the very
5 first image that we reviewed was a child, probably about
6 three years old, being raped. And so after I saw that, I
7 saw a couple more videos, similar in nature, and I decided
8 to leave because I didn't feel like it was necessary for me
9 to see the full scope since I'm not the person doing the
10 actual final evaluation. But it was disturbing enough that
11 I did not want to stay any longer to watch.

12 Q. In your opinion, the video that you're describing was
13 particularly violent?

14 A. Yes.

15 Q. Ms. Atwal also asked you if Mr. Piontek has been
16 cooperative. Do you recall that?

17 A. Yes.

18 Q. During your first interview, was Mr. Piontek honest
19 about the number of devices that would contain child
20 pornography?

21 A. No, he was not honest about that particular question.

22 Q. How so?

23 A. Well, all of the devices contained some type of
24 evidence. I believe he was partially honest in that the
25 vast majority of the collection of child pornography was on

1 the two devices that he described. However, there was
2 evidence of -- for example, on one of the devices there had
3 been child pornography and our computer forensics agent was
4 able to identify there was child pornography but that it had
5 been erased or somehow altered.

6 Q. And was Mr. Piontek honest with you about the quantity
7 of child pornography that he possessed?

8 A. No. I believe during the interview he said he had about
9 200 images, he may have said 300, I'm not sure, but it was
10 actually ten times that amount.

11 Q. And you were also asked if you are aware that
12 Mr. Piontek has engaged in any criminal behavior between
13 December and March of this year. Do you recall that?

14 A. Yes.

15 Q. And when you interviewed Mr. Piontek most recently, did
16 he make any admissions about continuing to view child
17 pornography to you?

18 A. He did. He stated that he continued to view -- that he
19 stopped the collecting. He would merely view it on his
20 computer and not store the images.

21 Q. During your interview with Mr. Piontek, you also had the
22 chance to ask him about whether he was being forthright or
23 minimizing his conduct. Do you recall that?

24 A. Yes.

25 Q. Why did you ask him those types of questions?

1 A. Well, I -- I just didn't feel that he was being fully
2 honest with me, and he, more or less, admitted that he had
3 minimized. And I don't know if that's attributed to the
4 fact that he was embarrassed or something along those lines,
5 but, yes, I many times told him that I felt that he was
6 minimizing, he was trying to make his role or involvement
7 sound smaller than it actually was.

8 Q. And what type of conduct did you suspect he engaged in
9 that you believed he was minimizing?

10 A. His involvement with sex tourism, with attempting to
11 have sexual relations with children in foreign countries.

12 Q. Ms. Atwal also asked you about Mr. Piontek's minimal
13 criminal history. Do you recall that?

14 A. Yes.

15 Q. In your training and experience investigating child
16 pornography cases, is it uncommon for a defendant to have a
17 minimal criminal history in this context?

18 A. No.

19 Q. You were also asked about Mr. Piontek's address in
20 Maplewood; is that right?

21 A. Yes.

22 Q. Are you familiar at all with what's located around
23 Mr. Piontek's residence?

24 A. I believe there's an elementary school I want to say
25 directly across the street, generally within a very short

1 distance from his house.

2 Q. Okay.

3 MR. SING: Thank you, Your Honor. I have nothing
4 further.

5 THE COURT: All right. Thank you.

6 Ms. Atwal, anything further?

7 MS. ATWAL: Yes, Your Honor.

8 THE COURT: Okay.

9

10 **RECROSS-EXAMINATION**

11 **BY MS. ATWAL:**

12 Q. Okay. So you just said that he told you there would be
13 evidence of child pornography in at least two devices,
14 correct?

15 A. Correct.

16 Q. Can you tell me what those two devices he said were?
17 The MacBook and the iPhone, correct?

18 A. No. I believe he said it was in his MacBook laptop
19 computer and the thumb drive that was found concealed,
20 wrapped up inside the sock inside the bottle.

21 Q. Okay. One of the devices that was found was the iPhone
22 7, correct?

23 A. Correct.

24 Q. How many images were found on the iPhone 7?

25 A. I can't tell you. I can tell you that I did not view

1 any images on that device. I did a cursory search and
2 that's where I came up with the information about the
3 communications on the device. I did not -- the platform I
4 was looking at it through didn't pull up images. It would
5 only pull up content, such as communications.

6 Q. So you don't know how many images were on the iPhone 7,
7 correct?

8 A. I can't tell you. I don't know.

9 Q. You don't know how many images were on the iPhone 6,
10 correct?

11 A. I do not know.

12 Q. You do not know how many images were on the Apple iPad,
13 correct?

14 A. That's correct.

15 Q. You do not know how many images were on the digital
16 camera containing a 64 gigabyte disk, SD card, correct?

17 A. I don't know.

18 Q. When you first interrogated him, he told you that there
19 would be images and in your complaint you say that would be
20 embarrassing to him, correct?

21 A. That's what his original statement was, correct.

22 Q. He used the word that would be embarrassing to him,
23 correct?

24 A. Correct.

25 Q. Of the thousands of images that were located, is it your

1 testimony you viewed about three videos?

2 A. Correct. I personally viewed about three and then I
3 left the examination.

4 MS. ATWAL: Thank you. I have nothing further.

5 THE COURT: All right. Thank you.

6 Anything further, Mr. Sing?

7 MR. SING: Not for Special Agent Hamblen, Your
8 Honor.

9 THE COURT: All right. Special Agent Hamblen,
10 thank you. You may step down.

11 Mr. Sing, do you have any other witnesses to call?

12 MR. SING: No, Your Honor.

13 THE COURT: All right. Do you have any other --
14 do you have any exhibits you intend to proffer?

15 MR. SING: I do not.

16 THE COURT: All right. Ms. Atwal, do you intend
17 to proffer any information? I know you're probably going to
18 be arguing, but is there any information you intend to
19 proffer that Mr. Sing should take account of when he is
20 making his argument?

21 MS. ATWAL: No. All the information I have will
22 come from the bond report itself, Your Honor.

23 THE COURT: All right. Then I will hear argument.
24 Mr. Sing.

25 MR. SING: And if I can clarify, Your Honor, would

1 you like both the probable cause and detention arguments at
2 the same time?

3 THE COURT: Um, yes, let's just go ahead and do it
4 that way.

5 MR. SING: Okay. Your Honor, my arguments on
6 probable cause are relatively straightforward. The charges
7 in this case are possession of child pornography and
8 interstate transportation of child pornography. Special
9 Agent Hamblen testified that as it relates to the possession
10 of child pornography, Mr. Piontek admitted to that conduct
11 and that there was an initial forensic examination of
12 Mr. Piontek's devices that he stated were within his
13 exclusive possession and control, and that both Special
14 Agent Hamblen and the forensic analysis of those devices
15 revealed thousands of images of child pornography involving
16 individuals and minors that are ages 12 and under.

17 So I think the combination of the admission,
18 Special Agent Hamblen's own review of the materials, and
19 testimony as it relates to the forensic analysis of those
20 devices establishes probable cause here that Mr. Piontek
21 possessed child pornography as described in the complaint.

22 On the other charge, which is interstate
23 transportation of child pornography, when Mr. Piontek was
24 stopped on December 11th of 2018, he was returning from
25 Thailand to Minneapolis, and that's when the devices were

1 seized that the child pornography was contained on.

2 Mr. Piontek also admitted during a Mirandized interview that
3 he traveled with the child pornography in interstate
4 commerce. So I think here it -- the combination again of
5 Special Agent Hamblen's testimony, his investigation, and
6 Mr. Piontek's admission established that this child
7 pornography traveled internationally and into the country.
8 So those are my arguments as relates to probable cause.

9 On the question of detention, Your Honor, I would
10 start by noting this is a rebuttable presumption case. The
11 charge of interstate transportation of child pornography
12 creates a rebuttable presumption that no condition or
13 combination of conditions can reasonably assure the safety
14 of the community or Mr. Piontek's appearance. And my
15 understanding of -- my understanding as it is right now is
16 that Mr. Piontek is offering no evidence for the purpose of
17 this hearing. So it would be his initial burden to present
18 that evidence. And my understanding is he's choosing not to
19 do so.

20 THE COURT: Are you saying that I'm not permitted
21 to take account of information in the bond report in that
22 regard?

23 MR. SING: I think that you are permitted to take
24 that information, but my understanding is that probation
25 does not take any type of position as it relates to

1 rebuttable presumption, other than noting it. So I'm
2 unaware of anything in the bond report that would
3 specifically rebut the presumption.

4 THE COURT: Okay.

5 MR. SING: I do acknowledge the recommendation of
6 the Probation Office in this case. As you'll hear, the
7 government has some pretty serious concerns about that
8 recommendation. But I wanted to note at least that the
9 Probation Office does not take into account the rebuttable
10 presumption, other than noting it. They don't take a
11 position as to whether it's rebutted or how it would be
12 done.

13 They also do not take directly into account the
14 nature of the offense or the strength of the evidence in the
15 case as it relates to the recommendation that they are
16 making here.

17 Given those circumstances, the government does
18 have serious concerns about the recommendation to release
19 Mr. Piontek to a halfway house in this case. And I'd like
20 to start with the safety of the community, which I think is
21 the main prong of my argument.

22 Your Honor, both charges here -- possession of
23 child pornography and interstate transportation of child
24 pornography -- are defined as crimes of violence in
25 Title 18. And here we have a large collection of child

1 pornography involving images of children under 12 years old.
2 This child pornography was hidden in a surreptitious manner
3 and had it not been for a secondary examination at an
4 airport, it wouldn't have been found. It was in a water
5 bottle or hidden in a false bottom of a water bottle.

6 Mr. Piontek has admitted that he's not only
7 downloaded and viewed child pornography in the United
8 States, he's also downloaded it abroad, and this suggests
9 someone who is highly motivated and sophisticated in their
10 manner of finding and locating child pornography.

11 You've also heard that the child pornography in
12 this case was particularly troubling, involving very violent
13 acts against a child that the special agent believes would
14 have been as young as three years old.

15 Mr. Piontek also affirmatively searched and used
16 his devices to search out opportunities to have sex with
17 children while he was abroad. He lands in Kiev and he uses
18 his phone to search for pedo sex, child prostitutes, and he
19 has extensive chat logs involving the solicitation of sex in
20 countries known to involve, unfortunately, the exploitation
21 of children.

22 In the past ten years, Mr. Piontek has taken 24
23 trips abroad. As the bond report notes, there's a mystery
24 here about his assets to do this travel, the reasons for
25 going to these countries, how he's paying for it. And the

1 most logical explanation is what the facts demonstrate,
2 which is Mr. Piontek is motivated by sex tourism and he is
3 specifically motivated by finding the opportunity to have
4 sex with a child. And after he's contacted by law
5 enforcement on December 11th, Mr. Piontek again leaves the
6 country and he goes to Thailand.

7 And, Your Honor, I think -- and I'll come back to
8 this at the end -- the one thing that stands out to our
9 office about this case in particular is that we have a
10 defendant who makes admissions about his curiosity and
11 fantasy about having sex with a child and that he is
12 motivated to take these travels and go out into the world.
13 He is motivated by that desire and realizing that fantasy.
14 That is a very real and exigent concern of the government
15 here, that now that he's facing potential punishment in this
16 case and on the charges as they are currently constituted --
17 not less than five years and up to possibly 20 years
18 imprisonment -- the motivation and the curiosity is probably
19 never greater than it is right now.

20 So if this is a fantasy and a desire that he has
21 and that he's been apparently honest about and motivated by
22 to travel for the last 10 years, now that he potentially has
23 eyes and ears on him, there's potentially never going to be
24 a stronger desire and motivation to satisfy his curiosity
25 than what he's facing right now.

1 As to risk of flight, as the bond report notes, he
2 has no significant ties to the State of Minnesota. He's
3 unemployed. He doesn't have any family in the area. He has
4 no financial obligations that I'm aware of tying him to the
5 State of Minnesota. He's a sophisticated traveler. He has
6 extensive international travel. He has a mysterious ability
7 to finance this travel, and we don't know where those assets
8 are or what they are, frankly. And, Your Honor, we're --
9 the government hasn't charged it yet, but we're certainly
10 investigating this as a potential sex tourism case. We
11 don't know the scope of this yet. As Special Agent Hamblen
12 testified, there's a lot of devices here. There's a lot of
13 chat logs here. And it's going to take us time to go
14 through that and review it.

15 So the combination of these things and the
16 potential of more charges, I think, increases the risk of
17 flight. But it's really the safety of the community that
18 leads to our strong position that detention is warranted
19 here.

20 The efficacy of the investigation, it's worth
21 noting that the bond report makes note that Mr. Piontek
22 worked for Comcast for an extensive period of time. We are
23 not sure yet what the evidence is going to reveal, but we
24 already know what he has used his devices for, what he has
25 used the internet for, and what he's traveled for. Someone

1 who has worked for an internet conglomerate is someone who
2 is pretty sophisticated in using computers. Allowing him
3 back into the community with -- even in a halfway house, and
4 I understand there are parameters in a halfway house, but we
5 don't know what this will do to the potential of other
6 evidence. We don't know what this does as far as logging
7 into cloud accounts. We have very real concerns about what
8 this could lead to.

9 The defendant admitted and Special Agent Hamblen
10 said this, that he never expected anyone to find his child
11 pornography. That's why it was hidden. And so now that
12 this has been found, we worry about what that could lead to.

13 And I think I'll end with, and this is where I
14 promised I would end, this idea that we would put someone
15 back out into the community in any format who said I have a
16 curiosity and a motivation to find or have sex with a child
17 seems beyond the pale. I think that's what danger to the
18 community is probably speaking of most readily. And this
19 case stands out to our office because it's not often that
20 someone is saying that's their motivation and someone who's
21 already shown a willingness to act on it and has -- I'll
22 leave it there, Your Honor. Thank you.

23 THE COURT: Thank you.

24 Ms. Atwal.

25 MS. ATWAL: Your Honor, on the issue of probable

1 cause, I'll rest on the record. And let me start with where
2 Mr. Sing left off. He said after knowing this information
3 about somebody discussing having sex with a child, having
4 possession of child pornography, releasing them is just
5 wrong. Let me remind the Court that on December 1st -- or
6 December 11th, 2018, agents found child pornography in a
7 secret area. They found child pornography on devices. They
8 got a confession from him and they released him. And that
9 was back in December of 2018. And what we do know is that
10 when they searched him again just over the weekend, as of
11 right now there is no evidence to suggest he was in that
12 same type of illegal behavior.

13 I want to first address the risk of flight. And I
14 would remind the Court that the passport that will allow
15 Mr. Piontek to travel is with federal agents. As the Court
16 knows from reading the bond report, he's born and raised
17 right here in Minnesota. He went to high school and college
18 right here in Minnesota. He inherited his grandfather's
19 house and has lived at that same house for 35 years. And we
20 heard from the agent himself he knows that Mr. Piontek lives
21 right in Maplewood, and that is the address -- he did
22 provide a Maplewood address to the probation officer.

23 When this case came up on December 11th, 2018, he
24 was questioned and he knew what he was doing was illegal.
25 Having child pornography, nobody advertises that. Nobody

1 puts it out there on the front street saying I'm collecting
2 child pornography. The very nature of the offenders that do
3 view child pornography is that they keep it secret, whether
4 they use anonymous names, whether it's on social media or
5 through the email. There's nothing different about this
6 case, about him hiding any type of child pornography. But
7 what's more telling as it goes to the question of flight is
8 he leaves and he goes to Thailand in February. He knew he
9 was under investigation. He knew he was in trouble. But
10 what does he do? He returns. And he not only returns to
11 the United States, he returns right to his house that he's
12 lived at for 35 years. He is stopped in Chicago and then
13 takes another flight back here to Minnesota. And, again,
14 never without a -- no issues whatsoever. There's no
15 indication that anything illegal is found on him or that he
16 attempted to flee. There was none of that evidence that was
17 presented to the Court.

18 We know from reading the bond report he worked at
19 Comcast for over 16 years. The government would like to
20 make the assumption because he worked at Comcast customer
21 service that that means he has knowledge about use of the
22 internet and could hide things. We don't even know what
23 type of job it was at Comcast. They are just making that
24 presumption that he has some kind of technical experience.

25 He is not a risk to flee. He showed up when he

1 came back from Thailand in February, came right back to
2 Minnesota, and he has his house that he's had for 35 years.

3 His eyes and ears were open at that time. They
4 were open back in December, and they were open when he came
5 back. And he knew that at any time that he could get in
6 trouble and here he is now in custody.

7 What the Court can do to assure that he stays
8 right here in Minnesota at the house in Maplewood is to
9 place an ankle bracelet on him. When probation looks at
10 conditions of whether somebody should be released or kept in
11 custody, they do in fact look at the offense, and we see
12 that the probation officer in fact both looking at risk of
13 flight and safety indicates the offense itself. So to say
14 that they don't look at the offense conduct, that's simply
15 not true. It says the offense charged right in assessment
16 of non-appearance and assessment of danger.

17 So let's move on to the assessment of danger, the
18 safety of the community. This is a possession of child
19 pornography case. It's not a production. So the government
20 can argue all day and all night that there's a chance that
21 he will have -- that he may have had contact with minors.
22 We have some text message where he -- or, excuse me, some
23 messages or some internet searches that he did, but when the
24 agent asked him if he had any contact with the minors, his
25 answer was "No." And in those thousands of images that they

1 found there's no indication that he produced any type of
2 child pornography. It is a possession of child pornography
3 type of a case.

4 There's no type of prior violence on his record.
5 We see that there's terroristic threats, where there was a
6 stay of adjudication, and once those conditions were met,
7 which I will note was without any type of issues, meaning he
8 is amenable to probation, the case was dismissed.

9 The Court can continue to make sure that the
10 community is safe by making sure he doesn't have a smart
11 phone, monitoring any type of computer use, and put a
12 condition on to have no contact with minors. He lives by
13 himself. There are no minors inside his home. And the
14 Court can also order a mental-health evaluation if the Court
15 feels that that's needed, too.

16 What I also know is that he will be supervised by
17 United States Probation Officer Mike Alberts. Mike Alberts
18 actually supervises people convicted of sex crimes. He's an
19 experienced probation officer that knows how to supervise
20 people that have been convicted of sex crimes. Here we have
21 a client that has not been convicted. He simply has been
22 accused of a crime. Through the supervision of Mike Alberts
23 of Probation and all the conditions that Probation lists, I
24 would submit to the Court there are conditions that the
25 Court can impose that would include an ankle bracelet, home

1 detention, and release to his home, computer monitoring, any
2 type of treatment the Court feels is deemed that is
3 necessary.

4 THE COURT: What about the concern expressed by
5 Special Agent Hamblen that his home is near a school or some
6 kind of facility where children are during the day?

7 MS. ATWAL: Your Honor, it's not from -- what I
8 could tell from Google Maps, it's not across the street as
9 the agent -- can't say he knew for sure, he just thought
10 maybe it was across the street. Again, if he is on house
11 arrest, that should assure that that would be safe enough.
12 Even if he's at a halfway house, there's schools, there's
13 kids, school buses that go. It's going to be very difficult
14 to say that he can't be anywhere near a school. It's just
15 going to be kids that are going to be there. But what you
16 can say is no contact with any type of minors or don't come
17 into 50 yards of any minor. If he sees a minor, he can
18 move. And the GPS monitoring that Probation has, they could
19 tell if he's getting out of his house or if he's moving away
20 from his house or coming near a school.

21 And, again, looking back at his history, there's
22 no indication that there was ever any issues with kids in
23 the school, whether there was peeping toms or that he was
24 behaving inappropriately around children near that school.
25 This is the same address he's had for 35 years.

1 THE COURT: Okay.

2 MS. ATWAL: Thank you, Your Honor.

3 THE COURT: Thank you.

4 Mr. Sing, anything by way of reply?

5 MR. SING: Yes, Your Honor. Thank you.

6 So, Your Honor, Ms. Atwal mentions that on
7 December 11th, 2018, law enforcement released Mr. Piontek
8 after they detained him for likely possession of child
9 pornography. I would note at that time they had not done
10 the forensic review of the devices yet that revealed the
11 internet searches for seeking out child prostitutes and pedo
12 sex. That came afterwards.

13 And I would submit that this is a case about
14 Mr. Piontek engaging in hidden things. He hides the thumb
15 drive that contains child pornography in the bottom of a
16 water bottle. And Ms. Atwal says, well, you know, this is a
17 child pornography case and no one advertises that. Well,
18 that's true, but after he's stopped by law enforcement, what
19 does he do? He goes back to Thailand, a location that is
20 known for sex tourism and child exploitation. He admits
21 that he has continued to access and view child pornography.
22 I don't think that this argument that, well, look, he's not
23 a risk of flight because after he knew he was in trouble, he
24 went abroad and then returned is something that rules in
25 favor of Mr. Piontek. To me what it suggests is someone who

1 knew that they were in trouble and despite knowing that they
2 were in trouble, their addiction and their motivation to
3 engage in sexual conduct and to have child pornography was
4 so great that they were willing to go again anyways. And
5 that's why I think detention here is the most warranted. If
6 we let Mr. Piontek out of custody, there is no reason to
7 believe that he is going to stop viewing child pornography
8 or that he will not make good on his noted and admitted
9 desire to have sex with a child. And, again, it's that
10 desire for action that makes this case different. Ms. Atwal
11 can claim that it is just the government making the
12 argument, but it's Mr. Piontek who admitted it. He said
13 that it was an added bonus that the locations that he
14 traveled to were places that he could potentially have sex
15 with a child.

16 And as the Court notes, he lived near a location
17 that children were known to have. I would submit that this
18 is just not something we can afford to get wrong. This is a
19 clear and present danger to the community. And Mr. Piontek
20 has demonstrated through his conduct already that if he's
21 released, he's going to find a will and a way to continue to
22 make choices that put people in harm's way.

23 Thank you, Your Honor.

24 THE COURT: Thank you.

25 Ms. Atwal.

1 MS. ATWAL: Your Honor, just two points: As it's
2 stated in the probation report, in the bond report,
3 Mr. Piontek said that he has a girlfriend in Thailand. He
4 lists that straight up. So to make the assumption that he
5 went back there to look at more child pornography, there's
6 nothing supporting that, because there's no evidence that
7 when he came back to Minnesota on Saturday that he was
8 possessing child pornography.

9 In relation to that, he didn't know that he was
10 really in trouble and that he fled and it was because the
11 agents -- or the -- excuse me. I'm sorry, let me start
12 again.

13 On December 11th, when he was first encountered by
14 customs agents, that's when he confessed that there was
15 child pornography. The very next day, December 12th, is
16 when the devices were turned over and forensics agents
17 evaluated those devices and child pornography was found.
18 They knew exactly where Mr. Piontek lived. They could have
19 gone, arrested him that day. He was not arrested that day.
20 It went half of December, all of January, all of February,
21 and then March 9th is when they decided to arrest him.

22 Thank you, Your Honor.

23 THE COURT: Thank you.

24 First on the issue of probable cause, I do find
25 probable cause based on Special Agent Hamblen's testimony

1 that -- to support the charges in the complaint with respect
2 to possession of and interstate transportation of child
3 pornography. So Mr. Piontek will be moving forward with
4 this case to face those charges.

5 On the issue of detention, first, as counsel for
6 the government notes, this is a rebuttable presumption case.
7 However, even though the counsel for Mr. Piontek did not
8 introduce new testimony, counsel is absolutely entitled to
9 cite information from the bond report that might tend to
10 rebut that presumption. And I do find that the presumption
11 has been rebutted, that you still have to move forward to
12 whether there's going to be detention, but I do find that
13 the presumption was rebutted. That means that the burden of
14 proof is back on the government to prove either by a
15 preponderance of the evidence that there are no conditions
16 or combination of conditions that could reasonably assure
17 that Mr. Piontek will appear or by clear and convincing
18 evidence that there are no conditions that would reasonably
19 assure the safety of the community. And in that connection,
20 although it is a very, very close call here, I am going to
21 accept, with some modifications, the recommendation of
22 Pretrial Services and find that there are conditions that
23 would reasonably assure that Mr. Piontek will appear and
24 would reasonably assure that he will not endanger the
25 community as this case proceeds.

1 Mr. Piontek, you need to understand that this was
2 a very close question. I'm going to talk to you about those
3 conditions, but I think it's safe to say -- although I might
4 not be the judge you're in front of the next time if there
5 is a problem -- I think it's safe to say that if you don't
6 strictly adhere to all of these conditions, there is an
7 outstanding chance that you won't get another chance, that
8 you will be detained. So you need to understand how
9 important it is that you adhere to these conditions.

10 Let me talk sort of in broad strokes first, and
11 then I'll get down to details. I said I was going to accept
12 the recommendation of Pretrial Services, but I am modifying
13 it a bit. First, you will be confined to a halfway house.
14 Based on the indication that your home is near a school or
15 perhaps a daycare center, but someplace where children are
16 during the day, I am not comfortable that releasing you to
17 your home would provide the reasonable assurance that I'm
18 looking for in terms of safety of the community. So you are
19 going to be confined to a halfway house.

20 You will be on location monitoring. And -- and
21 this is where I'm departing from the conditions proposed by
22 Pretrial Services -- I am going to require that you be on
23 home incarceration. I am not comfortable having you look
24 for a job or leave, except for the most -- for the narrowest
25 list of conditions, because I'm not satisfied under the

1 circumstances that that would provide the kind of assurance
2 that you would not find a way to access child pornography or
3 potentially -- and I absolutely hear Ms. Atwal and she's
4 right, at this point you haven't even been charged with
5 contact offenses with a minor, but given your
6 acknowledgement that you have some desires and some
7 motivations in that regard, I believe that you should not be
8 allowed to leave the halfway house, except for the very
9 narrowest sorts of conditions. And I think that will make
10 it more possible for Pretrial Services to adequately monitor
11 your location.

12 So let me start from the top and tell you about
13 these conditions. First, it is a condition that you must
14 appear for all court proceedings in this matter. Anything
15 at which your attendance is required by the court, you have
16 to show up for that. That means you need to stay in close
17 touch with your counsel so that you know when you need to
18 show up in court and where you will be showing up.

19 You will be signing what's known as an appearance
20 bond. That doesn't require you to put up any money, but it
21 does provide that if you are -- if you fail to appear when
22 the court requires you to or if you're convicted -- and you
23 are presumed innocent, but if you're convicted you are also
24 promising to show up to serve any sentence that the court
25 may impose. If you fail to appear in any respect as

1 required by the court, then you will be required -- in
2 addition to all of the other consequences, you will be under
3 an additional financial penalty of \$25,000.

4 You will be supervised by Officer Alberts from the
5 Pretrial Services Office. Pretty much anything you may want
6 to do by way of leaving the halfway house, except for very
7 limited exceptions, would have to be approved in advance by
8 Officer Alberts.

9 You cannot violate any, any federal, state or
10 local crime while you are on release. Now, you shouldn't be
11 -- or local law while you are on release. Now, you
12 shouldn't be violating any laws anyway, but it is a
13 condition of your release that you remain law abiding, not
14 just in connection with the kinds of offenses with which
15 you've been charged, but law abiding across the board. It
16 would violate the conditions of your release and potentially
17 put you at risk of being detained for the remainder of your
18 case if you violate any law while you are on release.

19 As I've already said, you will be submitting to
20 supervision by Pretrial Services.

21 You've already surrendered your passport. If you
22 have any other kind of travel document, you need to
23 surrender that as well. And you may not obtain a passport,
24 a green card, a visa, any kind of travel document. You
25 can't apply for a new one while you are on release while

1 your case proceeds.

2 Since you will be on home incarceration at the
3 halfway house, this next piece is probably moot, but you may
4 not leave the State of Minnesota, except as approved in
5 advance by your supervising officer.

6 You will maintain residence at a halfway house.
7 You will follow the rules of that facility. So if they have
8 some additional rules and some additional restrictions that
9 don't happen to be part of what I'm saying here, you still
10 have to follow them. And it's a condition of your release
11 to the halfway house that you will follow any rules and
12 restrictions that they establish, in addition to the
13 conditions that I'm establishing here.

14 You can't possess a firearm, a destructive device
15 or any kind of weapon.

16 You will be on home incarceration. I am making
17 that change in the recommended conditions. That restricts
18 you to 24-hour-a-day lockdown at the halfway house, except
19 for medical necessities and court appearances or other
20 activities that are specifically approved in advance by the
21 court or by your Pretrial Services officer.

22 I am removing the proposed condition from Pretrial
23 Services that you continue or actively seek employment
24 because, obviously, employment would not be consistent with
25 the restrictions I'm placing you on at the halfway house.

1 You do have to submit to location monitoring, and
2 your Pretrial Services officer will work with you to
3 establish the appropriate kind of location monitoring. And
4 you may not do anything, anything to tamper with the
5 effectiveness of that device.

6 If you have any kind of contact with
7 law-enforcement personnel, whether it's in connection with
8 this case or for any other reason, any contact at all with
9 law-enforcement personnel of any branch of government, you
10 need to report that immediately to your supervising officer
11 so that they hear it from you before they hear it through
12 the grapevine.

13 You may not possess or use a computer or any
14 device that gives you access to any kind of internet
15 service. There's some language here that would have more
16 applicability if you were going to be at home or at work,
17 but if it came to pass that you for some reason had use of a
18 computer, they would be allowed to install monitoring
19 equipment on that, but I think that's moot here given that
20 you will be in a halfway house and you're not allowed to
21 have a computer or access of any kind to any online service.
22 You may not -- and that includes you may not have access to
23 a cell phone. But you may not access any kind of child
24 pornography of any sort, regardless of how it may come into
25 your presence or come into your possession. You may not

1 possess it. You may not access it.

2 You will also upon request provide your
3 supervising officer with access to any financial information
4 that they may request, whether it's credit-card bills,
5 credit reports, bank statements or telephone bills, so that
6 they can do what they need to do to help confirm that you
7 have not violated or seeking to violate any of the terms and
8 conditions of your release.

9 You may not associate with individuals under the
10 age of 18, unless in the presence of a responsible adult who
11 is aware of the nature of your background, the nature of
12 these offenses with which you've been charged, and who has
13 been approved in advance of your Pretrial Services officer.

14 Mr. Sing, I know that you have argued strongly for
15 detention, and I'm -- you've heard my decision on that.
16 Given where I'm at on detention, are there any other
17 conditions that you would like me to consider at this time?

18 MR. SING: Your Honor, just one clarification. I
19 know that you had mentioned that Mr. Piontek not have a cell
20 phone.

21 THE COURT: Uh-huh.

22 MR. SING: It's my understanding that at the
23 halfway house they do have the ability to get flip phones,
24 and I just wanted to make sure that your order would
25 prohibit possession of a flip phone as well.

1 THE COURT: Okay. That would be my inclination.

2 Ms. Atwal, do you want to be heard on that?

3 MS. ATWAL: Your Honor, I will let the Court know
4 it is a flip phone. You cannot access the internet on that.
5 I know my clients had it usually when they want to get a
6 hold of me or whatever it is. It has no internet
7 capability.

8 FEMALE SPEAKER: Judge, it's also a phone that has
9 to be pre-approved by the probation officer and the halfway
10 house. It's a very specific phone that's allowed.

11 THE COURT: Okay. All right. So I will -- I will
12 not prohibit a flip phone that has been approved by the
13 halfway house and approved by the supervising probation
14 officer, but that's it. No other kind of phone, cell phone
15 or any other non-approved flip phone. There will be one --
16 it sounds like one specific type that is approved in
17 advance. And even if you think you've got something that's
18 sort of the equivalent of that, that's off limits, just the
19 one that we've been talking about here in court. I will add
20 something to these conditions to try to be more clear about
21 that before I provide them to Ms. Atwal for sign-off.

22 Mr. Sing, anything else?

23 MR. SING: Thank you, Your Honor. With that
24 clarification and as long as that type of a phone will be
25 monitored, that was the only real concern.

1 THE COURT: Let me ask about that of Pretrial
2 Services. Are these -- is there the ability to monitor
3 those -- the pre-approved type of flip phone?

4 FEMALE SPEAKER: Correct. And that is covered in
5 condition S, that the phone would be reviewed.

6 THE COURT: All right. All right. Very well. It
7 will take me a moment to kind of tweak this condition to
8 make sure that we -- that it accurately states what
9 Mr. Piontek will have access to and what he will not have
10 access to.

11 Other than that, I think that covers the key
12 conditions here. These will be in writing, Mr. Piontek.
13 You'll have an opportunity to review these with Ms. Atwal.

14 I've already said, but let me reiterate, how
15 important it is that you abide by these conditions. First,
16 if you don't, you will be back in court with Mr. Sing or one
17 of his colleagues arguing that, well, that failed, you're
18 going to have to be detained now.

19 Second, some of these conditions -- for example,
20 the condition that you not commit any new offenses -- not
21 only would you -- if you commit new offenses, not only would
22 you have to face the consequences of those offenses, but
23 there's some conditions when committing a new offense while
24 you're on pretrial release for another offense is yet
25 another offense. So we get this kind of snowballing effect

1 of bad consequences.

2 We've talked about the \$25,000 penalty if you
3 don't show up.

4 In addition, if you are convicted -- and I have
5 said before, but I can't say it strongly enough -- you are
6 presumed innocent, but if you are convicted, then one of the
7 things the judge can and will consider is whether -- is how
8 you behaved yourself while you are on release. If you
9 strictly comply with all of the conditions, that's something
10 the judge can consider to your benefit. If you mess up
11 while you are on release, that is absolutely something the
12 judge can consider and will consider in connection with
13 sentencing. So it has implications in that context as well.
14 The documents you get include a whole page about the bad
15 things that can happen to you if you don't comply with these
16 conditions.

17 Do you have any doubt in your mind how important
18 it is that you comply with each and every one of these
19 conditions while you have the opportunity to be released?

20 THE DEFENDANT: I have no doubt in my mind, Your
21 Honor.

22 THE COURT: Okay. Then what I will do -- you
23 know, we're late starting initial appearances already, so
24 I'm trying to think practically about -- I do want to take a
25 couple minutes and make sure this condition on cell phone

1 and computer access is exactly the way we've talked about
2 it, and that will take me a couple of minutes to do. So I'm
3 trying to think how best to manage that. Well, rather than
4 talk about it, let me just get it done here so that then,
5 Ms. Atwal, you can go through this with Mr. Piontek and we
6 can keep things moving. So give me a moment.

7 (A brief discussion was held off the record.)

8 MALE SPEAKER: Thank you, Your Honor.

9 THE COURT: All right. Thank you.

10 All right. Hopefully you'll be able to read my
11 handwriting, but here's what I've done with condition S:
12 The defendant shall not possess or use a computer, cell
13 phone or have access to any online service without the prior
14 approval of the United States Probation and Pretrial
15 Services Office. The defendant may have a flip phone if
16 pre-approved by the halfway house and Pretrial Services
17 provided it has no internet access and is monitored as set
18 forth herein. And then that paragraph goes on to describe
19 what may be done to monitor the phone.

20 Does that address that particular concern of
21 yours, Mr. Sing?

22 MR. SING: It does, Your Honor. Thank you.

23 THE COURT: All right. Ms. Atwal, does that sound
24 like the condition we were describing a few minutes ago?

25 MS. ATWAL: Yes, Your Honor.

1 THE COURT: All right. Then I think this is
2 ready, Ms. Atwal, for you to review with Mr. Piontek. I'll
3 let you do that. And I will recess court now, but you
4 should have a few minutes to do that before they start
5 bringing people up for initial appearances, and then you can
6 hand the signed documents to our clerk. All right?

7 MS. ATWAL: Thank you, Your Honor.

8 THE COURT: All right. Just a moment. All right.
9 I think everything is there. All right. Anything further
10 for the government?

11 MR. SING: No, Your Honor. Thank you.

12 THE COURT: All right. Ms. Atwal, anything
13 further for Mr. Piontek?

14 MS. ATWAL: No, Your Honor. Thank you.

15 THE COURT: All right. We'll be in recess.

16 THE COURTROOM DEPUTY: All rise.

17 (Court adjourned at 2:50 p.m.)

18 * * *

19 I, Debra Beauvais, certify that the foregoing is a
20 correct transcription from the audio recording of the
21 proceedings in the above-entitled matter to the best of my
22 abilities.

23 Certified by: s/Debra Beauvais
24 Debra Beauvais, RPR-CRR
25